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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,830	09/29/2003	Randolph J. Crowson II	1002/201	2538

7590

09/02/2005

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EXAMINER

CHAPMAN JR, JOHN E

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H:A

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/673,830	CROWSON, RANDOLPH J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John E. Chapman	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5-12,14-21 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-12,14-21 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Applicant's election with traverse of Invention I, claims 1, 5-12, 14-21 and 28, in the reply filed on June 2, 2005 is acknowledged. The traversal is on the ground(s) that it would not present a serious or undue burden for examiner to examine all pending claims. This is not found persuasive because the previously pending claims were directed to distinct inventions that have acquired a separate status in the art, as shown by their different classification. However, the issue is moot in view of the cancellation of claims 23-27 directed to Invention II.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the item of furniture must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 12, 14-16, 18-21 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, there is no antecedent basis for “the fixed surface” in line 3.

Regarding claim 14, there is no antecedent basis for “the fixed surface” in lines 1-2.

Regarding claim 16, there is no antecedent basis for “the base plate” in line 2 or “the spring assembly” in line 3.

Regarding claim 18, there is no antecedent basis for “the spring assembly” in lines 1-2.

Regarding claim 19, there is no antecedent basis for “the spring assembly” in lines 1-2.

Regarding claim 20, there is no antecedent basis for “the spring assembly” in line 2.

Regarding claim 28, there is no antecedent basis for “the spring assembly” in line 10.

Note that “a spring assembly” is introduced in line 18. It is not clear whether it is the same as “the spring assembly” in line 10.

5. Claims 1, 5-7, 10, 12, 14, 15 and 18-21, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Fukuoka.

Regarding claim 1, Fukuoka discloses a moveable assembly for vibrating a seat in Figs. 12 and 14 comprising an electromagnetic assembly 43, a portion 44 being integrated with the top portion 40 and a portion 46 being integrated with the bottom portion 41. The fittings of an automobile, such as a seat, comprise “furniture.” See the definition of “furniture” in Webster’s New Collegiate Dictionary.

Regarding claim 5, portion 44 comprises a magnet (col. 4, line 47) and portion 45 comprises a coil (col. 5, line 3).

Regarding claims 6 and 7, Fukuoka discloses a coil portion 153 and 163 attached to the top portion 135 in Fig. 22.

Regarding claim 10, the base 135 in Fig. 22 comprises a top plate for contacting the seat 1 and the connecting piece 152 contacts the coil portion 153 and 163.

Regarding claims 12 and 15, the electromagnet 153 comprises a magnet.

Regarding claim 14, Fukuoka discloses a floor 16.

Regarding claim 18, Fukuoka discloses a discrete spring 60 in Fig. 14.

Regarding claim 19, springs 60 and 61 are interspersed within the moveable assembly.

Regarding claim 20, the thickness of spring 61 is approximately equal to the distance between the bottom portion 41 and the top portion 40 in Fig. 15.

Regarding claim 21, rubber vibration isolators 48 in Fig. 12 comprise part of the spring assembly.

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6. Claims 6, 7, 10-12 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuoka.

Regarding claims 6, 7 and 10, the only difference between the claimed invention and the moveable assembly for vibrating a seat in Figs. 12 and 14 consists in the relative orientation of the magnet 44 and coil 45. Merely to attach the coil 45 to the upper portion 40 and the magnet 44 to the lower portion 41 would have been obvious to one of ordinary skill in the art. It has been generally held that the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. See *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955) (Prior art disclosed a clock fixed to the stationary steering wheel column of an automobile while the gear for winding the clock moves with steering wheel; mere reversal of such movement, so the clock moves with wheel, was held to be an obvious expedient.).

Regarding claim 10, the upper portion 40 comprises a top plate for contacting the seat.

Regarding claim 11, the only difference between the claimed invention and the prior art consists in providing a bobbin structure for the coil portion. It is well known in the art to provide a bobbin structure to support a coil, and merely to provide a bobbin structure to support the coil 45 in Figs. 12 or 14 or coil 153 in Fig. 22 would have been obvious to one of ordinary skill in the art.

Regarding claim 12, it would have been obvious to one of ordinary skill in the art to provide a permanent magnet in lieu of the electromagnet 153 in order to provide a constant magnetic flux in the direction A. The equivalence of permanent magnets and electromagnets using a direct current is well known in the art.

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Regarding claim 16, the only difference between the claimed invention and the prior art consists in providing a pin for providing transverse support to a spring assembly. It would have been obvious to use a coil spring 11 in Fig. 5 in lieu of the flat spring 61 in Fig. 14 or the leaf spring 155 of Fig. 22 for the purpose of supporting the vibrating seat. The spring support 8 comprises a pin member.

Regarding claim 17, Fukuoka discloses ball bearings 147 and 149 in Fig. 22. It is well known in the art to provide bushing material in lieu of ball bearings to provide a bearing for a shaft.

7. Claims 8, 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuoka as applied to claims 1 and 5 above, and further in view of Endo et al.

Regarding claims 8 and 9, the only difference between the claimed invention and the prior art consists in the location of the coil 45 of Fukuoka. It would have been obvious to one of ordinary skill in the art to configure the coil on a surface of the top portion or to embed the coil in the top portion, in view of Figs. 2 and 4 of Endo et al. Placing the coil on or in the top portion would have been an obvious rearrangement of parts. It has been generally held that the rearrangement of parts, where such rearrangement does not affect the operation of the device, is a design consideration within the skill of the art. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.).

Regarding claim 19, it would have been obvious to provide interspersed material within the moveable assembly of Fukuoka in view of pliable buffering member 4 of Endo et al. in order to smoothly vibrate the coil portion.

8. Claim 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamada discloses an apparatus for imparting vibratory motion to a chair comprising an electromagnetic assembly 5.

10. Applicant's arguments filed February 28, 2005 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period



will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John E. Chapman whose telephone number is (571) 272-2191. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John E Chapman  
Primary Examiner  
Art Unit 2856